

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

UNITED STATES OF AMERICA,

Plaintiff,

v.

No. 1:12-CR-01909 JAP

GILBERT ARAGON,

Defendant.

MOTION TO RECONSIDER DETENTION ORDER

Defendant, by and through undersigned counsel, hereby respectfully requests the Court to reconsider the Detention Order [Doc. 36] that was entered in this matter on August 10, 2012. As grounds for this Motion, Defendant states:

1. The Defendant has been charged in a multi-count Indictment with three (3) counts of distributing relative small quantities of Crack Cocaine. Each of the counts carries a penalty of zero to twenty (0-20) years. The Defendant has entered a Not Guilty plea and is in custody at the Sandoval County Detention Center awaiting trial.

2. The Defendant was initially detained in this matter following his arrest on August 8, 2012. Thereafter, on August 10, 2012, he appeared before Magistrate Judge Lorenzo F. Garcia for a Preliminary/Detention Hearing. The Defendant waived the Preliminary Hearing and, at the time, did not contest detention. The Court entered its Order detaining the Defendant based on

findings that there was a serious risk that he would not appear and that he was a danger to another person in the community. Defendant requests that he should be released to the third-party custody of the La Posada Halfway House.

3. Mr. Aragon is thirty-eight (38) years old and was born and raised in Las Vegas, New Mexico. Although he is currently separated from his wife, he has primary custody, and is the primary caretaker of their two (2) children ages two (2) and three (3). Mr. Aragon also has a nineteen (19) year old daughter, Shanarica Aragon, who is currently serving in the United States Army. At the time of his arrest, he was living with his mother, Dorothy, and his two (2) younger children. Dorothy, was previously employed with the Las Vegas School District as a cook at the Don Cecilio Elementary School in Las Vegas. However, following Mr. Aragon's arrest, she had to quit her job to care for his children.

4. Mr. Aragon dropped out of high school, and has not obtain his G.E.D. However, he did attend Luna Community College in Las Vegas in an attempt to get his G.E.D. Unfortunately, he suffers from some learning problems and he has difficulty reading and writing.

5. Mr. Aragon is unemployed due to the fact that he receives disability for injuries he sustained several years ago. When he can, he works with his uncles in cutting wood and obtaining and selling moss rocks.

6. He has an extensive family and is well respected within his family and in the community. (See letters attached as Exhibit A.)

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7. The Defendant's record, for the most part, consists of relatively minor traffic offenses. However, In 1999, he was convicted of Trafficking and placed on five (5) years probation. He subsequently violated probation and Defendant was sentenced to the New Mexico Department of Corrections in 2002.

8. Under the circumstances, Defendant is not a threat to the community nor is he a flight risk. Therefore, the Court should reconsider his conditions of release and release him to the third-party custody of the La Posada Halfway House or his aunt Carla Benavidez who resides in Las Vegas, New Mexico.

9. The Government opposes this request.

WHEREFORE, the Defendant hereby respectfully requests the Court to reconsider the Detention Order filed on August 10, 2012, and that Defendant be allowed to be released to the La Posada Halfway House.

Respectfully submitted,

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FILED ELECTRONICALLY

By: /s/ Michael V. Davis
Michael V. Davis
Attorney for Defendant Gilbert Aragon

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 28th day of September, 2012, I filed the foregoing electronically through the CM/ECF system, which caused the following counsel to be served by electronic means, as more fully reflected on the Notice of Electronic Filing:

SAMUEL A. HURTADO, *Assistant United States Attorney*
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/s/ Michael V. Davis
Michael V. Davis